



MICHIGAN COUNCIL
ON CRIME AND DELINQUENCY

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Senate Judiciary Committee
Testimony in Opposition to Senate Bills 318 and 319

Submitted by Kristen Staley
September 17, 2013

My name is Kristen Staley and I am the Senior Policy Associate at the Michigan Council on Crime and Delinquency (MCCD), a non-partisan, non-profit organization dedicated to improving the effectiveness of policies and systems aimed at reducing crime. The practice of sentencing young people to prison for life without the possibility of parole has been a particular concern for our organization. Michigan's current laws contradict youth development research, deny discretion to the judiciary and the parole board, and violate the Constitutional rights of Michigan's youngest citizens.

MCCD recognizes that this issue is deeply emotional for all of the individuals and families impacted by these crimes. Therefore, we greatly appreciate the thoughtfulness and effort of both the Senate Judiciary Committee and House Criminal Justice Committee members to effectively explore research-based solutions. MCCD has expressed support for House Bills 4806-4809; unfortunately, we oppose Senate Bills 318 and 319 in their current forms as they do not sufficiently acknowledge the well-established research on youth development nor adequately comply with the mandates established by the U.S. Supreme Court.

Specifically, MCCD does not support the following provisions of SB 318 and 319:

- Permitting a sentence of life without parole for those under 18 even if specific mitigating and aggravating factors are considered during the hearing;
- Requiring a term of 45 years before parole if a prosecutor does not seek a life sentence without the possibility of parole;
- Prohibiting retroactive application of the bill to those persons currently serving a juvenile life without parole sentence.

Under current Michigan law, a child as young as fourteen years old can be automatically waived to adult court, convicted, and mandatorily sentenced to life in prison without the possibility of parole - with no consideration of how age, development, or offense circumstances may affect competency in court or culpability for the crime.

These laws contradict the steadily growing body of adolescent development research documenting the neurological, cognitive, psychosocial, and emotional differences that distinguish youth from adults. Specifically, the research suggests that, as part of normal development, teens are more inclined to take risks, make impulsive decisions, and easily succumb to peer pressure.

Based on this scientific evidence, the U.S. Supreme Court has made clear that children must be treated differently than adults in the criminal justice system. In 2005, the Court abolished the juvenile death

penalty in *Roper v. Simmons*. In 2010, *Graham v. Florida* eliminated the sentence of juvenile life without parole for non-homicide offenses. Two years later, the Court established a "reasonable child" standard in *J.D.B. v. North Carolina*. And most recently, in the joint cases of *Miller v. Alabama* and *Jackson v. Hobbs*, the Court deemed mandatory sentences of life without parole for those under age 18 as cruel and unusual punishment.

Under *Miller*, the Supreme Court reasoned that mandatory penalty schemes are unconstitutional because it prevents the judiciary from "considering a juvenile's lessened culpability and greater capacity for change." The Court clearly states that each sentence must "take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison."

MCCD is pleased to see that the Senate Bills do allow the court and the parole board to consider individual factors, including the teen's age, character and record, family life, mental and emotional development, circumstances of the offense, including the extent of his or her participation in the crime, whether familial or peer pressure may have affected the person, and potential for rehabilitation.

It also appears that the *Miller* ruling already applies retroactively to over 350 people in Michigan who are currently serving this sentence. According to the U.S. District Court of Eastern Michigan in the ongoing *Hill v. Snyder* case, all individuals in Michigan serving life sentences for crimes committed when they were under 18 are eligible for parole. In his ruling, Judge O'Meara stated, "[i]ndeed, if ever there was a legal rule that should—as a matter of law and morality—be given retroactive effect, it is the rule announced in *Miller*.... To hold otherwise would allow the state to impose unconstitutional punishment on some persons but not others, an intolerable miscarriage of justice."

Given these numerous considerations, the Michigan Council on Crime and Delinquency urges the Senate Judiciary Committee to oppose Senate Bills 318-319 and instead consider the provisions outlined in House Bills 4806-4809 as a way to effectively address the constitutional obligations affirmed by the U.S. Supreme Court and provide a necessary pathway for courts and the parole board to weigh the individual circumstances of each case.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read 'Kristen Staley', with a stylized flourish at the end.

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